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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,059	01/23/2004	Douglas Durham	15436.164.1	7603
22913 7590 09/26/2008 WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111				
EXAMINER				
HAMZA, FARUK				
ART UNIT		PAPER NUMBER		
2155				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/764,059

**Applicant(s)**

DURHAM ET AL.

**Examiner**

FARUK HAMZA

**Art Unit**

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 15-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date 11/23/04 9/11/08
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the communication filed on August 07, 2008. Applicant's election without traverse of species I (claims 1-14) in the reply filed on August 07, 2008 is acknowledged. The applicant is requested to cancel claims 15-32.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claim limitation "determining whether one or more of the identified ports are available" "using at least one of any available ports to at least partially define a domain" "configuring at least one port of any domain that was defined in connection with an available port" "modifying any domain that was at least partially defined in connection with an available port comprises changing the number of ports associated with the domain" "displaying information concerning a domain" "displaying information concerning port parameters" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate

figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification failed to provide enough description of claim limitation "using at least one of any available ports to at least partially define a domain" so an ordinary skill in the art can comprehend the claimed invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the preamble it recites "A method for facilitating analysis of one or more aspects of a communication network..." but none of steps achieve analysis of communication network.

It is unclear and indefinite to the examiner what applicant meant by claim limitations "using at least one of any available ports to at least partially define a domain" "configuring at least one port of any domain that was defined in connection with an available port".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 3-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Roland et al. (U.S. Patent Number 5,373,501) hereinafter referred as Roland.

Roland teaches the invention as claimed including a telecommunications network testing and protocol analyzer arrangement including an improved control and port selecting circuitry which may be provided in the form of a board which

plugs into a standard IBM for IBM compatible PC,XT,AT expansion bus (8 bits) and allows for the operate, non-operate control of up to 180 port relays while at the same time providing 8 simultaneous control outputs for other circuit and parameter control function (see abstract).

As the examiner best understands claim 1, Roland teaches a method for facilitating analysis of one or more aspects of a communications network, the method being suitable for use in connection with a multi- protocol communications analyzer, and the method comprising (abstract):

identifying ports of the multi-protocol communications analyzer (abstract, Column 2, lines 64-Column 3, lines 2);

determining whether one or more of the identified ports are available (abstract, Column 1, lines 35-49);

using at least one of any available ports to at least partially define a domain (Column 1, lines 35-49, Column 5, lines 24-36) ; and

configuring at least one port of any domain that was defined in connection with an available port (Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 3, the method as recited in claim 1, wherein the domain, if any domain was defined, comprises one of: a modified version of a previously existing domain; a new domain (Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 4, the method as recited in claim 1, further comprising modifying any domain that was at least partially defined in connection with an available port (Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 5, the method as recited in claim 4, wherein modifying any domain that was at least partially defined in connection with an available port comprises changing the number of ports associated with the domain (abstract).

As the examiner best understands claim 6, the method as recited in claim 1, further comprising displaying information concerning the ports of the multi-protocol communications analyzer (abstract).

As the examiner best understands claim 7, the method as recited in claim 1, further comprising displaying information concerning availability of the ports of the multi-protocol communications analyzer (abstract).

As the examiner best understands claim 8, the method as recited in claim 1, further comprising displaying information concerning a domain (abstract, Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 9, the method as recited in claim 1, further comprising displaying information concerning port parameters (abstract).

As the examiner best understands claim 10, the method as recited in claim 1, further comprising receiving one of: a domain creation request; a domain modification request (abstract, Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 11, the method as recited in claim 10, further comprising receiving and displaying the name of the domain that is the subject of the received request (abstract, Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 12, the method as recited in claim 1, further comprising receiving port selection input if a port has been determined to be available (Column 5, lines 24-36).

As the examiner best understands claim 13, the method as recited in claim 1, further comprising receiving port configuration input if a domain has been at least partially defined in connection with an available port (abstract, Column 5, lines 55-Column 6, lines 40).

As the examiner best understands claim 14, The method as recited in claim 1, further comprising displaying port configuration information if a domain has been at least partially defined in connection with an available port (abstract, Column 5, lines 55-Column 6, lines 40).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roland and further in view of Coupal et al. (U.S. Patent Number 6,931,574) hereinafter referred as Coupal.

Roland teaches the invention substantially as claimed including a telecommunications network testing and protocol analyzer arrangement including an improved control and port selecting circuitry which may be provided in the form of a board which plugs into a standard IBM for IBM compatible PC,XT,AT expansion bus (8 bits) and allows for the operate, non-operate control of up to 180 port relays while at the same time providing 8 simultaneous control outputs for other circuit and parameter control function (see abstract).

As the examiner best understands claim 1, Roland teaches the method as recited in claim 1.

Roland does not explicitly teach the claim limitation of a portion of the method is performed by way of a graphical user interface.

However, Coupal teaches the claim limitation of a portion of the method is performed by way of a graphical user interface (Fig. 4).

It would have been obvious to the ordinary skill in the art at the time of the invention to modify Roland by adding functionality to perform protocol analysis by using graphical user interface, which would provide greater ease to the users. One would be motivated to do such to enhance system's usability.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll –free).

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